

**BEFORE THE AIR POLLUTION CONTROL BOARD  
EASTERN KERN AIR POLLUTION CONTROL DISTRICT**

In the matter of: )

ADOPTION OF AMENDED  
RULE 402, FUGITIVE  
DUST OF THE EASTERN  
KERN AIR POLLUTION  
CONTROL DISTRICT )

Resolution No. 2015-004-03

I, Debra Bias, SECRETARY TO THE AIR POLLUTION CONTROL BOARD  
THE EASTERN KERN AIR POLLUTION CONTROL DISTRICT, certify that the  
following Resolution, proposed by Director Scrivner and seconded by  
Warren, was duly passed and adopted by said Board at an official meeting  
on this 12<sup>th</sup> day of March, 2015, by the following vote:

AYES: All Directors: Grimes, Warren, Scrivner, Gleason, Breeden

NOES: None

ABSENT: None

(District Seal)



DEBRA BIAS  
Secretary of the Air Pollution Control Board of  
the Eastern Kern Air Pollution Control District

By Bias

**RESOLUTION**

**Section 1. WHEREAS:**

(a) The Eastern Kern Air Pollution Control District ("District") is authorized by Health and Safety Code section 40702 to make and enforce all necessary and proper orders, rules and regulations to accomplish the purposes of Division 26 of the Health and Safety Code; and

STATE OF CALIFORNIA  
EASTERN KERN AIR POLLUTION CONTROL DISTRICT  
I, Debra Bias, Secretary of the Board of Directors do hereby certify  
the foregoing to be a full, true and correct copy of the original  
Resolution 2015-004-03 on file in my office.  
Witness my hand and seal of the Board of Directors.  
This 20<sup>th</sup> day of March 2015  
(Seal)  
DEBRA BIAS  
Secretary of the Board of Directors  
By: Bias Clerk

(b) The Air Pollution Control Officer ("APCO") for said District has recommended that the Board of Directors of the Eastern Kern Air Pollution Control District ("Board") consider adopting certain revisions to the Rules and Regulations of the District; and

(c) A notice of a public hearing on March 12, 2015, at the hour of 2:00 p.m. at the Rosamond Community Services District, 3179 35<sup>th</sup> Street West, Rosamond, California, to consider the adoption of Rule 402 (Fugitive Dust), was duly given; and

(d) The matter was heard at the time and place so specified, evidence was received and all persons desiring to be heard in said matter were given an opportunity to be heard;

Section 2. IT IS RESOLVED by the Board as follows:

1. This Board does hereby revise the Rules and Regulations of the District as set forth in Exhibit "A" attached hereto and incorporated herein by this reference. The foregoing referenced Rules and Regulations attached hereto as Exhibit "A" are hereby adopted as revisions to the Rules and Regulations of the District with said amendments to be effective upon incorporation of the amended rule into the District's State Implementation Plan by the Environmental Protection Agency ("EPA").

2. The findings of this Board, based on the evidence submitted at the hearing upon which its decision is based, are as follows:

a. The proposed revisions to the Rules and Regulations will adopt amended Rule 402 to prevent, reduce, and mitigate ambient concentrations of anthropogenic fugitive dust emissions to an amount sufficient to maintain the National Ambient Air Quality Standards ("NAAQS"); and

b. All notices required to be given by law have been duly given in accordance with Health and Safety Code section 40725, and the Board has allowed public comment, both oral and written, in accordance with Health and Safety Code section 40726; and

c. The written analysis required by Health and Safety Code section 40727.2, which identifies all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed for adoption or modification, and also identifies any of the District's existing or proposed rules that apply to the same equipment or source type, was prepared by the District. A copy of the analysis was made available to the public from the District.

3. Further findings of this Board as required by Health and Safety Code Section 40727 are as follows:

a. The proposed revisions are necessary to accomplish the purposes of Division 26 of the Health and Safety Code and to comply with state and/or federal Clean Air Act requirements; and

- b. The Board is authorized to adopt and revise rules and regulations as may be necessary or proper to execute the powers and duties granted to, and imposed upon, the District by Health and Safety Code section 40702; and
  - c. The Board has reviewed the proposed revisions and has determined that the said provisions are set forth in clear and concise language so that their meaning can be easily understood by the persons directly affected by them; and
  - d. The proposed revisions are in harmony with, and not in conflict with or contradictory to, existing District Rules and Regulations, statutes, court decisions, or state or federal regulations; and
  - e. The proposed revisions do not impose the same requirements as an existing state or federal regulation; and
  - f. The revised Rules and Regulations are being implemented in compliance with Health and Safety Code section 40001 which requires the District to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emissions sources under its jurisdiction, and enforce all applicable provisions of state and federal law.
4. This Board finds, based on the staff report filed with this Board and the record of its rule adoption hearing, and pursuant to sections 40703 and 40922 of the Health and Safety Code that the Rule and Regulation contained in Exhibit "A" is the most cost effective of the available control measures considered by this Board.
5. This Board finds that draft Rule 402 (Fugitive Dust), poses no significant impact on the environment and is exempt from California Environmental Quality Act ("CEQA") Guidelines pursuant to the Section 15061, Subsections (b) (2) & (3).
6. District staff is directed to prepare a Notice of Exemption for this project, and the Secretary of this Board is hereby directed to file the Notice of Exemption with the Kern County Clerk.
7. The District shall maintain a record of this rule-making proceeding in accordance with Health and Safety Code section 40728.
8. The Secretary of this Board is hereby directed, for the purposes of conforming to Section 40704 of the Health and Safety Code, to cause a certified copy of this Resolution, together with the Rule and Regulation adopted herein, to be filed with the California Air Resources Board.
9. The Secretary of this Board is further directed to cause a certified copy of this Resolution to be forwarded to the APCO for said District and to the County Counsel of Kern County.
10. The APCO for said District is directed to transmit said rule to the California Air Resources Board for submittal to EPA for incorporation in the District's State Implementation Plan.

11. The Board authorizes the APCO for said District to include in the submittal or subsequent documentation any technical corrections, clarifications, or additions that may be needed to secure EPA approval, provided such changes do not alter the substantive requirements of the approved rule.

**Remainder of Page Intentionally Left Blank**